

ACT No. 2006-300

1 SB296
2 83972-3
3 By Senator Byrne (N & P)
4 RFD: Local Legislation No. 1
5 First Read: 19-JAN-06



1 SB296

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With Notice and Proof

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6 ENROLLED, An Act,

7 Relating to Baldwin County; to authorize the county

8 and any municipality in the county to assess and collect

9 impact fees on new development for governmental infrastructure

10 purposes.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12 Section 1. This act shall apply only in Baldwin
13 County.

14 Section 2. For the purposes of this act, the
15 following words have the following meanings:

16 (1) GOVERNMENTAL INFRASTRUCTURE. Any facilities,
17 systems, or services that are owned and operated by or on
18 behalf of a political subdivision for any of the following
19 purposes:

20 a. Storm water, drainage, and flood control.

21 b. Roads and bridges.

22 c. Capital expenditures related to law enforcement
23 and public safety, fire protection, emergency medical
24 services, public park and recreational facilities, and public
25 schools.

1 (2) IMPACT FEE. A charge or assessment imposed by a
2 political subdivision against new development in order to
3 generate revenue for funding or recouping the costs of
4 governmental infrastructure necessitated by and attributable
5 directly to the new development. The term includes the
6 dedication of land for public parks or payments made in lieu
7 of the dedication to serve park needs and includes amortized
8 charges, lump-sum charges, capital recovery fees,
9 contributions in aid of construction, and any other similar
10 fee that functions as described by this definition. The term
11 does not include any of the following:

12 a. Dedication of rights-of-way or easements or
13 construction or dedication on-site or off-site water
14 distribution, wastewater collection or drainage facilities, or
15 streets, sidewalks, or curbs if the dedication or construction
16 is required or necessitated by and attributable to the new
17 development.

18 b. Lot or acreage fees to be placed in trust funds
19 for the purpose of reimbursing developers for oversizing or
20 constructing water or sewer mains or lines.

21 c. Other pro rata fees for reimbursement of water or
22 sewer mains or lines extended by the political subdivision.

23 (3) NEW DEVELOPMENT. The subdivision of land; the
24 construction, reconstruction, redevelopment, conversion,
25 structural alteration, relocation, or enlargement of any

1 structure; or any use or extension of the use of land; any of
2 which increases the demands on governmental infrastructure.

3 (4) POLITICAL SUBDIVISION. A municipality or the
4 county.

5 (5) ROADS AND BRIDGES. Any public highway, road, or
6 bridge in the political subdivision, together with all
7 necessary appurtenances. The term includes the political
8 subdivision's share of costs for roadways and associated
9 improvements designated on the federal or state highway
10 system, including local matching funds and costs related to
11 utility line relocation and the establishment of curbs,
12 gutters, sidewalks, drainage appurtenances, and rights-of-way.

13 Section 3. (a) Unless otherwise specifically
14 authorized by state law or this act, the Baldwin County
15 Commission or a municipality in the county may not enact or
16 impose an impact fee.

17 (b) Municipalities may enact or impose impact fees
18 only on land within their corporate limits by complying with
19 this act. The Baldwin County Commission may enact or impose
20 impact fees only on land outside of the corporate limits of a
21 municipality by complying with this act.

22 (c) A municipality may contract with the Baldwin
23 County Commission to provide governmental infrastructure,
24 except roadway facilities, to an area outside its corporate
25 limits.

1 Section 4. An impact fee may be imposed only for
2 governmental infrastructure and costs directly related
3 thereto.

4 Section 5. (a) (1) An impact fee per service unit of
5 new development may be set by the political subdivision not to
6 exceed one percent of the estimated fair and reasonable market
7 value of the new development after completion.

8 (2) The estimated fair and reasonable market value
9 of a new development for the purpose of setting an impact fee
10 pursuant to subdivision (1) shall be based on the amount set
11 forth for the issuance of the building permit plus the value
12 of the land or an estimated fair and reasonable market value
13 based on information submitted by the developer. If the
14 political subdivision does not agree with the estimated fair
15 and reasonable market value submitted by the developer, the
16 political subdivision may obtain an appraisal by a licensed
17 appraiser. If the value of the development as submitted by the
18 developer and the value as set forth in the appraisal obtained
19 by the political subdivision are within 10 percent of each
20 other, the two values shall be averaged to determine the
21 estimated fair and reasonable market value of the development.
22 If the two values are not within 10 percent of each other, the
23 developer and the political subdivision shall together select
24 a licensed appraiser to submit an appraisal that would be
25 binding on both parties.

1 (b) An impact fee may be levied only once on a
2 service unit.

3 (c) A political subdivision, by ordinance, may
4 provide for credits against any impact fees for expenditures
5 for governmental infrastructure by the developer of a new
6 development and may provide credits based on the demonstrated
7 public benefit of the development. The political subdivision
8 may provide the procedure for the approval of any credit
9 against any impact fees on the development as provided in this
10 subsection.

11 Section 6. A political subdivision may collect
12 impact fees at either the time of the transfer of a lot or
13 service unit, at the time of connection to the political
14 subdivision's water or sewer system, or at the time the
15 political subdivision issues either the building permit or the
16 certificate of occupancy. Any impact fees assessed pursuant to
17 this act shall be paid by the developer and shall be a lien on
18 the property.

19 Section 7. Prior to the adoption of an impact fee
20 for the political subdivision, the political subdivision shall
21 hold a public hearing on the governmental infrastructure needs
22 as a result of new development. Notice of the public hearing
23 shall be published at least once in a newspaper of general
24 circulation in the political subdivision not less than two
25 weeks prior to the public hearing. Action or the resolution or

1 ordinance setting the impact fee in the political subdivision
2 may be taken at a regularly scheduled meeting of the governing
3 body of the political subdivision not less than two weeks
4 after the public hearing. The political subdivision shall make
5 a specific finding that the impact fee will benefit the new
6 development.

7 Section 8. Any impact fees collected within a
8 political subdivision shall be used only for governmental
9 infrastructure purposes. Any impact fees collected pursuant to
10 this act shall be expended or contracted to be expended within
11 two years of the collection of the fees unless the development
12 or the expenditure or contracting for expenditure of the fees
13 is delayed by an Act of God or litigation. Any impact fee not
14 expended or contracted for within two years unless subject to
15 an exception as provided above shall be refunded to the
16 developer.

17 Section 9. All laws or parts of laws which conflict
18 with this act are repealed.

19 Section 10. This act shall become effective on the
20 first day of the third month following its passage and
21 approval by the Governor, or its otherwise becoming law.

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Lucy Baxley

President and Presiding Officer of the Senate

Ray H. Hunt

Speaker of the House of Representatives

SB296

Senate 14-MAR-06

I hereby certify that the within Act originated in and passed the Senate, as amended.

McDowell Lee
Secretary

House of Representatives
Amended and passed 29-MAR-06

Senate concurred in House amendment 30-MAR-06

By: Senator Byrne

APPROVED *April 4, 2006*

TIME *8:45 a.m.*

Bob Riley
GOVERNOR